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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

OTIS HALL,

Plaintiff,

v.

T. SCHAEFFER, et al.,

Defendants.

2:07-CV-419 JCM (RJJ)

ORDER

Presently before the court is the case of *Hall v. Schaefer et al* (Case No. 2:07-cv-00419). On January 6, 2010, the court entered an order granting the defendant's motion to dismiss. (Doc. #33). In the order, the court dismissed the plaintiff's first and second claims for relief with prejudice, and dismissed the third claim for relief without prejudice. Further, the court granted leave for the plaintiff to file an amended complaint within thirty days from that date.

On January 13, 2010, plaintiff Otis Hall filed a notice of appeal (doc. #34), asserting that his complaint was improperly dismissed. On February 9, 2010, the United States Court of Appeals for the Ninth Circuit entered an order (doc. #39) dismissing the appeal, and holding that the "court lack[ed] jurisdiction over this appeal because the order challenged in the appeal is not final or appealable. See Fed. R. Civ. P. 54(b); Chacon v. Babcock, 640 F.2d 221, 222 (9th Cir. 1981)." Specifically, because the plaintiff was granted leave to amend his complaint, the dismissal was not appealable. *WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997).

Since the dismissal of the appeal, the plaintiff has not filed an amended complaint with the court nor has he filed any supplemental motions with the court. As pro se litigants are held to a less

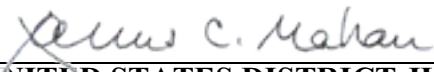
1 stringent pleading standard than attorneys, *Haines v. Kerner*, 404 U.S. 519, 520 (1972), this court
2 is inclined to grant plaintiff thirty (30) days to file an amended complaint. If plaintiff fails to file his
3 amended complaint within the time frame allotted, the court will dismiss the action with prejudice.

4 Accordingly,

5 IT IS HEREBY ORDERED ADJUDGED AND DECREED that plaintiff Otis Hall will have
6 thirty (30) days from the date of this order to properly file and serve his amended complaint.

7 IT IS FURTHER ORDERED that the above captioned case will be DISMISSED with
8 prejudice if plaintiff fails to file an amended complaint.

9 DATED January 31, 2011.

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12 UNITED STATES DISTRICT JUDGE